

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION**

**HAMDİ HASSAN, on behalf of himself and
those similarly situated,**

Plaintiff,

-against-

**DONATOS PIZZERIA, LLC, JANE
GROTE ABELL, and THOMAS KROUSE,**

Defendants.

Case No.

Jury Demand Endorsed Hereon

CLASS ACTION COMPLAINT

Plaintiff Hamdi Hassan (“Plaintiff”), on behalf of himself and all others similarly situated, as class representative, hereby alleges as follows:

PRELIMINARY STATEMENT

1. This action seeks to recover unpaid minimum wages, unpaid overtime, and unreimbursed expenses, in an amount to be determined at trial, on behalf of Plaintiff and similarly situated delivery drivers who worked at one of the more than 150 Donatos Pizzeria restaurants owned and operated by Defendants Donatos Pizzeria, LLC (“Donatos Pizzeria”), Jane Grote Abell (“Mrs. Grote Abell”), and Thomas Krouse (“Mr. Krouse”) (collectively, “Defendants”).

2. Donatos Pizzeria is a family-owned pizza company with more than 150 locations in Ohio, Indiana, Kentucky, Alabama, Virginia, and Tennessee.

3. Donatos Pizzeria was founded in Columbus, Ohio in 1963 by Jim Grote.

4. Throughout the time period relevant to this matter, Donatos Pizzeria is run by Mr. Grote's daughter, Jane Grote Abell, who serves as President and Chairwoman of the Board, and Thomas Krouse, who is the Chief Executive Officer.

5. Defendants' restaurants are centrally operated from Donatos Pizzeria's headquarters at 935 Taylor Station Road, Columbus, Ohio 43230.

6. All delivery drivers at Donatos Pizzeria, including Plaintiff, are subject to the same employment policies and practices, including policies and practices with respect to wages.

7. Defendants maintain a policy and practice of underpaying their delivery drivers in violation of the Fair Labor Standards Act ("FLSA"), 29 U.S.C. § 201, *et seq.*, the Ohio Minimum Fair Wage Standards Act (the "OMFWSA"), O.R.C. § 4111.01, *et seq.*, and the Ohio Constitution, Art. II, § 34a ("Section 34a").

8. Defendants maintained a policy and practice of failing to reimburse delivery drivers for automobile costs, including but not limited to gasoline, insurance, and automobile maintenance expenses, and other job-related expenses, causing Plaintiff's and similarly situated delivery drivers' wages to fall below minimum wage.

9. At all relevant times, Defendants failed to take reasonable steps to ensure delivery drivers received adequate reimbursement for their automobile expenses and other job-related expenses.

10. Plaintiff brings this action on behalf of themselves and similarly situated current and former delivery drivers who elect to opt in pursuant to FLSA 29 U.S.C. § 216(b) to remedy violations of the FLSA wage and hour provisions by Defendants.

11. Plaintiff also brings this action on behalf of themselves and similarly situated current and former delivery workers in Ohio pursuant to Federal Rule of Civil Procedure 23 to

remedy violations of OMFWSA, O.R.C. § 4111.01, *et seq.*, and the Ohio Constitution, Art. II, § 34a.

JURISDICTION AND VENUE

12. This action is brought pursuant to the FLSA, 29 U.S.C. §201, *et seq.*, the OMFWSA, O.R.C. § 4111, *et seq.*, the Ohio Constitution Art. 2 §34a, and 28 U.S.C. §1331 and §1343(a)(4).

13. Jurisdiction is conferred upon this Court by 28 U.S.C. §1331, which provides for original jurisdiction of Plaintiff's claims arising under the laws of the United States and over actions to secure equitable and other relief.

14. This Court's jurisdiction is also predicated upon 28 U.S.C. §1367 as this Class Action Complaint raises claims pursuant to the laws of Ohio, over which this Court maintains supplemental subject matter jurisdiction.

15. Venue is proper in this forum pursuant to 28 U.S.C. §1391, because Plaintiff entered into an employment relationship with Defendants in the Southern District of Ohio and performed his job duties there. Furthermore, Defendants are doing and have done substantial business in the Southern District of Ohio.

PARTIES

Hamdi Hassan

16. Plaintiff Hassan is a citizen of the United States and resides in the Southern District of Ohio. Further, at all times material herein Plaintiff worked within the boundaries of Southern District of Ohio.

17. At all times relevant herein, Plaintiff was an "employee" of Defendants as defined in the FLSA, the OMFWSA, and Section 34a.

18. Plaintiff has given written consent to join this action, a copy of which is attached to this Class Action Complaint.

Donatos Pizzeria, LLC

19. Defendant Donatos is a foreign limited liability company organized under the laws of the state of Delaware and doing business as “Donatos Pizza” in the Southern District of Ohio.

20. Donatos is an “employer” of Plaintiff and similarly situated delivery drivers as that term is defined by the FLSA, the OMFWSA, and Section 34a.

21. “Donatos Pizzeria, LLC” is the corporate entity that appears on Plaintiff’s paystubs for work he completed for Defendants.

22. Donatos Pizzeria currently operates over 150 restaurants in six states – Ohio, Indiana, Kentucky, Alabama, Virginia, and Tennessee.

23. Upon information and belief, Donatos Pizzeria applies the same employment policies, practices, and procedures to all delivery drivers at all of its locations, including policies, practices, and procedures relating to payment of minimum wages, overtime wages, and automobile expenses.

24. At all relevant times, Donatos Pizzeria has maintained control, oversight, and direction over Plaintiff and similarly situated employees, including, but not limited to, hiring, firing, disciplining, timekeeping, payroll, and other practices.

25. At all relevant times, Donatos Pizzeria has been and continues to be an enterprise engaged in “the production of goods for commerce” within the meaning of the phrase as used by the FLSA.

26. Donatos Pizzeria gross revenue exceeds \$500,000 per year.

Jane Grote Abell

27. Defendant Jane Grote Abell is the President and Chairwoman of the Board for Donatos Pizzeria.

28. Upon information and belief, Mrs. Grote Abell resides in Columbus, Ohio.

29. Mrs. Grote Abell is married to Mr. Krouse.

30. At all relevant times, Mrs. Grote Abell has been an “employer” of Plaintiff and similarly situated delivery drivers as that term is defined by the FLSA and the OMFWSA.

31. At all relevant times, Mrs. Grote Abell has been actively involved in managing the operations of Donatos Pizzeria.

32. At all relevant times, Mrs. Grote Abell has had control over Defendants’ pay policies and the unlawful policies and practices alleged herein.

33. At all relevant times, Mrs. Grote Abell has had power over personnel and payroll decisions at Donatos Pizzeria.

34. At all relevant times, Mrs. Grote Abell has had the power to stop any illegal pay practices that harmed Plaintiff and similarly situated employees.

35. At all times relevant, Mrs. Grote Abell has had the power to transfer the assets and liabilities of Donatos Pizzeria.

36. At all relevant times, Mrs. Grote Abell has had the power to declare bankruptcy on behalf of Donatos Pizzeria.

37. At all relevant times, Mrs. Grote Abell has had the power to enter into contracts on behalf of Donatos Pizzeria.

38. At all relevant times, Mrs. Grote Abell has had the power to close, shut down, and/or sell Donatos Pizzeria.

Thomas Krouse

39. Defendant Thomas Krouse is the CEO of Donatos Pizzeria.

40. Upon information and belief, Mr. Krouse resides in Columbus, Ohio.

41. Mr. Krouse is married to Mrs. Grote Abell.

42. At all relevant times, Mr. Krouse has been an “employer” of Plaintiff and similarly situated delivery drivers as that term is defined by the FLSA and the OMFWSA.

43. At all relevant times, Mr. Krouse has been actively involved in managing the operations of Donatos Pizzeria.

44. At all relevant times, Mr. Krouse has had control over Defendants’ pay policies and the unlawful policies and practices alleged herein.

45. At all relevant times, Mr. Krouse has had power over personnel and payroll decisions at Donatos Pizzeria.

46. At all relevant times, Mr. Krouse has had the power to stop any illegal pay practices that harmed Plaintiff and similarly situated employees.

47. At all times relevant, Mr. Krouse has had the power to transfer the assets and liabilities of Donatos Pizzeria.

48. At all relevant times, Mr. Krouse has had the power to declare bankruptcy on behalf of Donatos Pizzeria.

49. At all relevant times, Mr. Krouse has had the power to enter into contracts on behalf of Donatos Pizzeria.

50. At all relevant times, Mr. Krouse has had the power to close, shut down, and/or sell Donatos Pizzeria.

FACTS

CLASSWIDE FACTUAL ALLEGATIONS

51. During all relevant times, Defendants have operated a chain of over 150 Donatos Pizzeria restaurants in Ohio, Indiana, Kentucky, Alabama, Virginia, and Tennessee.

52. The primary function of these Donatos Pizzeria restaurants is to sell pizza and other food items to customers, whether they dine in, carry out, or have their food delivered.

53. Each or most of Defendants' stores employs delivery drivers who are primarily responsible for delivering pizzas and other food items to customers' homes and workplaces.

54. Plaintiff and the similarly situated persons Plaintiff seeks to represent are current and former delivery drivers employed by Defendants.

55. All delivery drivers employed by Defendants over the last three years had essentially the same job duties – to deliver pizza and other food items to customers.

56. When there were no deliveries to make, Defendants' delivery drivers were required to work inside the Donatos Pizzeria restaurant building pizza boxes, cleaning, preparing pizza and other food items, taking orders, and completing other duties inside the restaurant as necessary.

57. Defendants require delivery drivers to maintain and pay for operable, safe, and legally compliant automobiles to use in delivering Defendants' pizza and other food items.

58. Defendants also require delivery drivers to incur other job-related expenses in delivery Defendants' pizza and other food items including, but not limited to, cellular telephone charges, GPS capability, and other equipment necessary for delivery drivers to complete their job duties for Defendants.

59. Pursuant to such requirements, Plaintiff and other similarly situated employees purchase gasoline, vehicle parts and fluids, automobile repair and maintenance services, automobile insurance, and suffered automobile depreciation, all for the primary benefit of Defendants.

60. Additionally, Plaintiff and other similarly situated employees purchased other items including but not limited to, cellular telephone service, GPS/maps, and other expenses, all for the primary benefit of Defendants.

61. At all times relevant, Defendants have paid Plaintiff and other similarly situated delivery drivers the applicable minimum wage (currently \$8.10 per hour in Ohio) during the hours they worked.

62. Defendants failed to pay Plaintiff and similarly situated delivery drivers sufficient wages to adequately reimburse them for their automobile expenses or job-related expenses incurred in delivering Defendants' pizza and other food items.

63. Defendants have failed to take reasonable steps to ensure Plaintiff and other similarly situated delivery drivers were sufficiently reimbursed for automobile expenses and other job-related expenses.

64. Defendants have not even attempted to reasonably approximate the automobile expenses incurred by Plaintiff and similarly situated delivery drivers.

65. In addition to paying delivery drivers minimum wage, Defendants also paid Plaintiff and other similarly situated delivery drivers \$1.10 per delivery.

66. This pay rate was applied uniformly to all delivery drivers at all Donatos Pizzeria restaurants.

67. Defendants have not determined Plaintiff and similarly situated delivery drivers' per delivery pay based on an attempt to calculate the actual out of pocket expenses of Plaintiff and similarly situated delivery drivers.

68. Plaintiff and similarly situated delivery drivers regularly had to travel up to five to six miles away from the restaurant to make deliveries.

69. According to the Internal Revenue Service, the standard mileage rate for the use of a car during the relevant time periods were:

- a. 2013: 56.5 cents/mile
- b. 2014: 56 cents/mile
- c. 2015: 57.5 cents/mile

70. According to the American Automobile Association ("AAA"), driving costs per mile during the relevant time periods were:

- a. 2013: 60.8 cents/mile
- b. 2014: 59.2 cents/mile
- c. 2015: 58 cents/mile

71. As a result of the automobile and other job-related expenses incurred by Plaintiff and other similarly situated delivery drivers, they were deprived of minimum wage and overtime wages guaranteed to them by the FLSA and Ohio law.

72. Plaintiff and other similarly situated delivery drivers were not required to record their automobile and other job-related expenses and Defendants have failed to maintain accurate records of automobile and job-related expenses and deductions from wages.

73. Defendants did not monitor the mileage Plaintiff and similarly situated delivery drivers drove while making deliveries for Defendants, nor did they monitor the gasoline purchases made by Plaintiff and similarly situated delivery drivers.

74. Upon information and belief, Defendants apply the same pay policies, practices, and procedures to all delivery drivers at all Donatos Pizzeria restaurants.

75. Defendants have willfully failed to pay federal and Ohio state minimum wage and overtime to Plaintiff and similarly situated delivery drivers at Donatos Pizzeria restaurants.

PLAINTIFF'S INDIVIDUAL FACTUAL ALLEGATIONS

76. Consistent with their policies, patterns, and practices as described herein, Defendants harmed Plaintiff, individually, as follows:

Hamdi Hassan

77. Plaintiff worked as a delivery driver for Defendants from approximately January 2015 to November 2015. He worked at the Donatos Pizzeria located in the Smoky Row Plaza Shopping Center at 1878 Hard Road, Columbus, OH 43235.

78. Plaintiff typically worked over 40 hours per week for Defendants.

79. As a delivery driver, Plaintiff delivered pizza and other food items to Defendants' customers' homes and businesses.

80. When he is not making deliveries, Plaintiff works inside the restaurant, completing tasks such as making pizzas, taking orders, building pizza boxes, taking out trash, sweeping up the food line and other general tasks within the store.

81. At all times during his employment, Plaintiff has been qualified to perform the essential functions of his job and performed his duties competently.

82. Defendants pay Plaintiff minimum wage - \$8.10 per hour – for all hours worked.

83. During Plaintiff's employment with Defendants, Defendants took deductions from Plaintiff's wages by requiring him to pay for automobile expenses and other job-related expenses out of his own pocket in order to carry out the essential functions of his job as a

delivery driver. Plaintiff was never reimbursed or otherwise compensated for these automobile expenses.

84. As a result of unreimbursed automobile expenses and other job-related expenses, Defendants have failed to pay Plaintiff minimum wage as required by law.

85. Plaintiff regularly drove up to six miles away from his restaurant to make deliveries.

86. Plaintiff regularly made approximately one to five deliveries per hour during the hours he worked as a delivery driver.

COLLECTIVE ACTION ALLEGATIONS

87. Plaintiff brings the First and Second Counts on behalf of himself and all similarly situated current and former delivery drivers employed at the Donatos Pizzeria restaurants owned, operated and controlled by Defendants nationwide, during the three years prior to the filing of this Class Action Complaint and the date of final judgment in this matter, who elect to opt-in to this action (the “FLSA Collective”).

88. At all relevant times, Plaintiff and the FLSA Collective have been similarly situated, have had substantially similar job duties requirements and pay provisions, and have been subject to Defendants’ decision, policy, plan, practices, procedures, protocols, and rules of willfully refusing to pay Plaintiff and the FLSA Collective minimum wage for all hours worked, time-and-one-half overtime pay for hours worked in excess of 40 per workweek, and failed to reimburse delivery drivers for automobile expenses, gasoline, and other expenses. Plaintiff’s claims are essentially the same as those of the FLSA Collective.

89. Defendants’ unlawful conduct is pursuant to a corporate policy or practice of minimizing labor costs by failing to properly pay Plaintiff and the FLSA Collective.

90. Defendants are aware or should have been aware that federal law required them to pay employees minimum wage for all hours worked.

91. Defendants are aware or should have been aware that federal law required them to reimburse delivery workers for expenses relating to “tools of the trade,” such as an automobile and gasoline for delivery workers.

92. Defendants are aware or should have been aware that federal law required them to pay non-exempt employees an overtime premium for hours worked over 40 per workweek.

93. Defendants’ unlawful conduct has been widespread, repeated, and consistent.

94. The First and Second Counts are properly brought under and maintained as an opt-in collective action under 29 U.S.C. § 216(b).

95. The FLSA Collective members are readily identifiable and ascertainable.

96. For the purpose of notice and other purposes related to this action, the FLSA Collective members’ names and addresses are readily available from Defendants’ records.

97. Notice can be provided to the FLSA Collective via first class mail to the last address known to Defendants.

98. In recognition of the services Plaintiff has rendered and will continue to render to the FLSA Collective, Plaintiff will request payment of a service award upon resolution of this action.

CLASS ACTION ALLEGATIONS

99. Plaintiff brings the Third and Fourth Counts under Federal Rule of Civil Procedure 23, on behalf of themselves and a class of persons consisting of:

All persons who work or worked as Delivery Drivers and similar employees for Donatos Pizzeria, LLC in Ohio between June 22, 2013 and the date of final judgment in this matter (“Rule 23 Class”).

100. Excluded from the Rule 23 Class are Defendants' legal representatives, officers, directors, assigns, and successors, or any individual who has, or who at any time during the class period has had, a controlling interest in Defendants; the Judge(s) to whom this case is assigned and any member of the Judges' immediate family; and all persons who will submit timely and otherwise proper requests for exclusion from the Rule 23 Class.

101. The members of the Rule 23 Class are readily ascertainable. The number and identity of the Rule 23 Class members are ascertainable from Defendants' records. The hours assigned and worked, the positions held, and the rates of pay for each Rule 23 Class Member are also determinable from Defendants' records. For the purpose of notice and other purposes related to this action, their names and addresses are readily available from Defendants. Notice can be provided by means permissible under Federal Rule of Civil Procedure 23.

102. The Rule 23 Class member are so numerous that joinder of all members is impracticable, and the disposition of their claims as a class will benefit the parties and the Court.

103. There are more than 50 Rule 23 Class members.

104. Plaintiff's claims are typical of those claims which could be alleged by any Rule 23 Class member, and the relief sought is typical of the relief which would be sought by each Rule 23 Class member in separate actions.

105. Plaintiff and the Rule 23 Class members were subject to the same corporate practices of Defendants, as alleged herein, of failing to pay minimum wage, failing to pay overtime, and failing to reimburse for expenses.

106. Plaintiff and the Rule 23 Class members have all sustained similar types of damages as a result of Defendants' failure to comply with OMFWSA and Section 34a.

107. Plaintiff and the Rule 23 Class members have all been injured in that they have been uncompensated or under-compensated due to Defendants' common policies, practices, and patterns of conduct. Defendants' corporate-wide policies and practices affected all Rule 23 Class members similarly, and Defendants benefited from the same type of unfair and/or wrongful acts as to each of the Rule 23 Class members.

108. Plaintiff and the Rule 23 Class sustained similar losses, injuries, and damages arising from the same unlawful practices, policies, and procedures.

109. Plaintiff is able to fairly and adequately protect the interests of the Rule 23 Class and have no interests antagonistic to the Rule 23 Class.

110. Plaintiff is represented by attorneys who are experienced and competent in both class action litigation and employment litigation.

111. A class action is superior to other available methods for the fair and efficient adjudication of the controversy, particularly in the context of wage and hour litigation on behalf of minimum wage employees where individual class members lack the financial resources to vigorously prosecute a lawsuit against corporate defendants. Class action treatment will permit a large number of similarly situated persons to prosecute their common claims in a single forum simultaneously, efficiently, and without the unnecessary duplication of efforts and expense that numerous individual actions engender. Because the losses, injuries, and damages suffered by each of the individual Rule 23 Class members are small in the sense pertinent to class action analysis, the expenses and burden of individual litigation would make it extremely difficult or impossible for the individual Rule 23 Class members to redress the wrongs done to them. On the other hand, important public interests will be served by addressing the matter as a class action. The adjudication of individual litigation claims would result in a great expenditure of Court and

public resources; however, treating the claims as a class action would result in significant saving of these costs. The prosecution of separate actions by individual class members would create a risk of inconsistent and/or varying adjudications with respect to the individual Rule 23 Class members, establishing incompatible standards of conduct for Defendants and resulting in the impairment of the Rule 23 Class members' rights and the disposition of their interests through actions to which they were not parties. The issues in this action can be decided by means of common, class-wide proof. In addition, if appropriate, the Court can, and is empowered to, fashion methods to efficiently manage this action as a class action.

112. Upon information and belief, Defendants and other employers throughout the state violate the OMFWSA and Section 34a. Current employees are often afraid to assert their rights out of fear of direct and indirect retaliation. Former employees are fearful of bringing claims because doing so can harm their employment, future employment, and future efforts to secure employment. Class actions provide class members who are not named in the complaint a degree of anonymity, which allows for the vindication of their rights while eliminating or reducing these risks.

113. This action is properly maintainable as a class action under Federal Rule of Civil Procedure 23(b)(3).

114. Common questions of law and fact exist as to the Rule 23 Class that predominate over any questions only affecting Plaintiff and the Rule 23 Class members individually and include, but are not limited to:

- a. Whether Defendants paid Plaintiff and the Rule 23 Class at the proper minimum wage rate for all hours worked;
- b. Whether Defendants failed to reimburse automobile expenses, gasoline expenses, and other expenses, as described herein, causing Plaintiff and the Rule 23 Class members' wages to drop below legally allowable minimum wage and overtime;

- c. Whether Defendants properly compensated Plaintiff and the Rule 23 Class for hours worked in excess of 40 each workweek;
- d. Whether Defendants failed to pay Plaintiff and the Rule 23 Class in a timely manner as described by O.R.C. § 4113.15;
- e. Whether Defendants' policy of failing to pay Plaintiff and the Rule 23 Class was instituted willfully or with reckless disregard of the law; and
- f. The nature and extent of class-wide injury and the measure of damages for those injuries.

115. In recognition of the services Plaintiff has rendered and will continue to render to the Rule 23 Class, Plaintiff will request payment of a service award upon resolution of this action.

CAUSES OF ACTION

COUNT I

Failure to Pay Minimum Wages - Fair Labor Standards Act (On Behalf of Plaintiff and the FLSA Collective)

116. Plaintiff restates and incorporates the foregoing allegations as if fully rewritten herein.

117. Plaintiff and the FLSA Collective are or were non-exempt, hourly employees entitled to receive no less than minimum wage for all hours worked.

118. Defendants required Plaintiff and the FLSA Collective to pay for automobile expenses and other job-related expenses out of pocket.

119. By the acts and conduct described above, Defendants willfully violated the provisions of the FLSA and disregarded the rights of Plaintiff and the FLSA Collective.

120. Plaintiff and the FLSA Collective have been damaged by Defendants' willful failure to pay minimum wage as required by law.

121. As a result of Defendants' violations, Plaintiff and the FLSA Collective are entitled to damages, including, but not limited to, unpaid wages, unreimbursed expenses, costs, and attorneys' fees.

COUNT II

**Failure to Pay Overtime Wages – Ohio Minimum Fair Wage Standards Act
(On Behalf of Plaintiff and the FLSA Collective)**

122. Plaintiff restates and incorporates the foregoing allegations as if fully rewritten herein.

123. Plaintiff and the FLSA Collective worked more than forty hours in one or more workweeks.

124. Because Defendants took unlawful deductions and required Plaintiff and the FLSA Collective to pay for automobile expenses and other job-related expenses out of pocket, Defendants did not pay Plaintiff and the FLSA Collective at least one and a half times their normal hourly rate for time worked in excess of forty hours per workweek.

125. By not paying Plaintiff and the FLSA Collective proper overtime wages for time worked in excess of forty hours in a workweek, Defendants have willfully violated the FLSA.

126. As a result of Defendants' willful violations, Plaintiff and the FLSA Collective are entitled to damages, including, but not limited to, unpaid wages, unreimbursed expenses, costs, and attorneys' fees.

COUNT III

**Failure to Pay Minimum Wages - Ohio Constitution, Article II, § 34a
(On Behalf of Plaintiff and the Rule 23 Class)**

127. Plaintiff restates and incorporates the foregoing allegations as if fully rewritten herein.

128. Defendants paid Plaintiff and the Rule 23 Class below minimum wage for the hours they worked by requiring them to cover automobile expenses and other job-related expenses.

129. Article II § 34a of the Ohio Constitution requires that employees be paid not less than minimum wage as determined by an inflation index (currently \$8.10/hour) for all hours worked.

130. Because Defendants required Plaintiff and the Rule 23 Class to pay for automobile expenses and other job-related expenses out of pocket, Defendants failed pay Plaintiff and the Rule 23 Class minimum wage.

131. By not paying Plaintiff and the Rule 23 Class at least minimum wage for each hour worked, Defendants have violated the Ohio Constitution, Article II, § 34a.

132. As a result of Defendants' violations, Plaintiff and the Rule 23 Class are entitled to damages, including, but not limited to, unpaid wages, an additional two times unpaid wages in damages under Section 34a, unreimbursed expenses, costs, and attorneys' fees.

COUNT IV

Failure to Pay Overtime Wages – Ohio Minimum Fair Wage Standards Act (On Behalf of Plaintiff and the Rule 23 Class)

133. Plaintiff restates and incorporates the foregoing allegations as if fully rewritten herein.

134. Plaintiff and the Rule 23 Class worked more than forty hours in one or more workweeks.

135. Because they required Plaintiff and the Rule 23 Class to pay for automobile expenses and other job-related expenses out of pocket, Defendants did not pay Plaintiff and the

Rule 23 Class at least one and a half times their normal hourly rate for time worked in excess of forty hours per workweek.

136. By not paying Plaintiff and the Rule 23 Class proper overtime wages for time worked in excess of forty hours in a workweek, Defendants have violated the OMFWSA.

137. As a result of Defendants' violations, Plaintiff and the Rule 23 Class are entitled to damages, including, but not limited to, unpaid wages, liquidated damages, unreimbursed expenses, costs, and attorneys' fees.

COUNT V

Untimely Payment of Wages – O.R.C. § 4113.15 (On Behalf of Plaintiff and the Rule 23 Class)

138. Plaintiff restates and incorporates the foregoing allegations as if fully rewritten herein.

139. During all relevant times, Defendants were entities covered by O.R.C. § 4113.15, and Plaintiff and the Rule 23 Class were employees within the meaning of O.R.C. § 4113.15 and were not exempt from its protections.

140. O.R.C. § 4113.15(A) requires that Defendants pay Plaintiff and the Rule 23 Class all wages, including unpaid overtime, on or before the first day of each month, for wages earned during the first half of the preceding month ending with the fifteenth day thereof, and on or before the fifteenth day of each month, for wages earned during the last half of the preceding calendar month.

141. Plaintiff and the Rule 23 Class's unpaid wages and unreimbursed expenses have remained unpaid for more than thirty (30) days beyond their regularly scheduled payday.

142. In violating Ohio law, Defendants acted willfully, without a good faith basis and with reckless disregard to Ohio law.

143. As a result of Defendants' willful violation, Plaintiff and the Rule 23 Class are entitled to unpaid wages and liquidated damages, as stated in O.R.C. § 4113.15.

WHEREFORE, Plaintiff Hamdi Hassan pray for all of the following relief:

A. Designation of this action as a collective action on behalf of the collective action members and prompt issuance of notice to all similarly-situated members of an opt-in class, apprising them of this action, permitting them to assert timely wage and hour claims in this action, and appointment of Plaintiff and their counsel to represent the collective action members.

B. Unpaid minimum wages, overtime pay, reimbursement of expenses and unlawful deductions, and an additional and equal amount as liquidated damages pursuant to the FLSA and supporting regulations;

C. Certification of this case as a class action pursuant to Rule 23 of the Federal Rules of Civil Procedure;

D. Designation of Plaintiff as representative of the Rule 23 Class and counsel of record as Class Counsel;

E. A declaratory judgment that the practices complained of herein are unlawful under Section 34a and the OMFWSA.

F. An award of unpaid minimum wages, overtime wages, unlawful deductions and unreimbursed expenses due under Section 34a and the OMFWSA.

G. An award of damages under §34a, based on Defendants' failure to pay minimum wages pursuant to §34a, calculated as an additional two times of back wages.

H. Liquidated damages under O.R.C. § 4113.15 and the OMFWSA.

I. An award of prejudgment and post-judgment interest.

J. An award of costs and expenses of this action, together with reasonable attorneys' fees and expert fees.

K. Such other legal and equitable relief as the Court deems appropriate.

Respectfully submitted,

/s/ Robert J. Beggs

Robert J. Beggs, Esq. (0002966)

TRIAL COUNSEL FOR PLAINTIFFS

Beggs Law Offices Co., LPA

1675 Old Henderson Road

Columbus, Ohio 43220

John.Beggs@BeggsLawOffices.com

614-678-5640 Direct Dial

614-448-9408 Facsimile

Andrew Kimble, Esq. (0093172)

Kimble Law, LLC

1675 Old Henderson Road

Columbus, Ohio 43220

Andrew@kimblelawoffice.com

614-983-0361 Direct Dial

614-448-9408 Facsimile

*Counsel for the Plaintiffs and the putative FLSA
Collective and Rule 23 Class*

JURY DEMAND

Plaintiff hereby demand a jury trial by the maximum persons permitted by law on all issues herein triable to a jury.

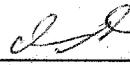
/s/ Robert J. Beggs

ROBERT J. BEGGS, ESQ. (0002966)

CONSENT TO JOIN 29 U.S.C. § 216(B) ACTION

I hereby consent to joining the civil action in the United States District Court against Donato's Pizzeria, LLC, and related entities and individuals, to recover unpaid minimum wages, overtime wages, additional damages, attorneys' fees, and costs under 29 U.S.C. § 216(b), and to be represented by Beggs Law Offices Co., LPA and Kimble Law, LLC for the purposes of this action. I hereby represent that I was/am an employee who did not receive proper pay for the hours I worked for Donato's and related entities and individuals. In the event the action gets conditionally certified and then decertified, I authorize plaintiff's counsel to reuse this Consent Form to re-file my claims in a separate or related action against Defendants.

06-22-16
Date


Signature

Hanji Hassan
Name (Printed)